

REMARKSDiscussion of Claim Rejections under 35 U.S.C. 112

The Examiner rejected Claims 3 and 4 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In response to these rejections, the applicant has amended Claims 3 and 4 accordingly to be specific and clear to the subject matter of the claims.

Withdrawal of the rejections of the claims is respectfully requested.

Discussion of Claim Rejections under 35 U.S.C. 102(b)

The Examiner rejected Claims 1 through 7 under 35 U.S.C. 102(b) as being anticipated by Shapira (US Patent Number 5,913,859).

In response to the rejection, the applicant has amended Claim 1 by limiting it further by incorporating the limitations of Claim 6 and lines 22-32, page 10 of the international publication WO 2004/002331.

Shapira's Disclosure

Shapira discloses an apparatus (10) for extracting bone marrow, which includes a shaft (47), a bur (38), a spiral cutting blade (59), a housing (17), a first passage (50), a source (51), a collection device (56), a drive gear (44), and a beveled gear (41). Shapira's apparatus is for recovering bone marrow from a patient and subsequent collection and storage.

Claim 1

Claim 1 of the present invention reads as follows (emphasis is added);

Claim 1. A facial bone contouring device using a hollowed rasp provided with non-plugging holes formed through a cutting plane, comprising:

a rasp including a rod, and a cutter provided with a plurality of grooves for exhausting cut bone fragments, a saline solution feeding passage and a bone fragment exhausting passage formed in the cutter;

a powered surgical handpiece connected to the rasp for providing linear reciprocating motion to the rasp;

a saline solution feeding unit for feeding saline solution to the saline solution feeding passage of the rasp;

a suction unit for sucking the cut bone fragments from the rasp via the bone fragment exhausting passage and then exhausting the cut bone fragments to the outside; and

a protector, formed to have a cylindrical shape, configured to accept and surround the entire surface of the rod and a part of the cutter of the rasp, wherein the protector is configured to be inserted with a trocar,

wherein bone cutting is performed under the condition that the saline solution is fed into the rasp, and the cut bone fragments are exhausted to the outside together with the saline solution, so that the bone cutting is continuously performed, and wherein the protector is configured to be separated from the rasp, to accept the trocar, to be delivered to a bone cutting site, to release the trocar, and to accept the rasp in the original place such that the rasp is disposed at the bone cutting site via a minimum incision.

The amended Claim 1 of the present invention is directed to a facial bone contouring device using hollowed rasp provided with non-plugging holes formed through cutting plane, which includes structural features to enable to insert the device beneath the skin through a minimum-sized incision and delivered to a bone cutting site to carry out facial bone contouring surgery.

The protector 50 is not just an enclosure or case for the other elements, but it is detachable from the rasp 10 and can be used to deliver the rasp 10 to the bone cutting site with a minimum incision. (See, e.g., lines 22 through 32, page 10 of the international publication WO 2004/002331, and Figs. 4 and 5.)

The Examiner stated that Shapira's device has a cylindrical protector e.g. (10), having a double tube structure (Fig. 2). However, the features such as being detachable to accept a trocar, for example, are not disclosed. Therefore, Shapira's device does not include any element similar

to the protector of the present invention, which is essential to deliver the rasp 10 to the bone cutting site with a minimum incision. In addition, Shapira does not disclose the linear reciprocating motion of the cutting device clearly.

Dependent Claims

Although Applicant has not addressed all the issues of the dependent claims, Applicant respectfully submits that Applicant does not necessarily agree with the characterization and assessments of the dependent claims made by the Examiner, and Applicant believes that each claim is patentable on its own merits. Claims 2-5 and 7 are dependent either directly or indirectly on the above-discussed independent Claim 1. Applicant respectfully submits that the dependent claims incorporate by reference all the limitations of the claim to which they refer and include their own patentable features, and are therefore in condition for allowance. Therefore, Applicant respectfully requests the withdrawal of all claim rejections and prompts allowance of the claims.

Therefore, Shapira does not anticipate all the elements or features of the present invention. Withdrawal of the 102(b) rejections of Claims 1 through 7 is respectfully requested.

**CONCLUSION**

The applicant believes that the rejections were obviated by the amendment of claims, and the application is now in condition for allowance; therefore, reexamination, reconsideration and allowance of the claims are respectively requested. If there are any additional comments or requirements from the examination, the applicant asks for a non-final office action.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any over-payment to Deposit Account No. 16-0310.

Very truly yours,

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